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**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

CWK/149698

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**PRELIMINARY RECITALS**

Pursuant to a petition filed May 30, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Bureau of Long-Term Support in regard to Medical Assistance, a hearing was held on June 25, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether there is an issue over which the Division of Hearings and Appeals has jurisdiction in this matter.

NOTE: With Petitioner's permission, I contacted the Department of Health Services to inquire about a citation that would address the co-pay issue. The e-mail response has been marked as Exhibit 7 and entered into the record.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street  
Madison, Wisconsin 53703

By: None

Bureau of Long-Term Support  
1 West Wilson

Madison, WI

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

### **FINDINGS OF FACT**

1. Petitioner is a resident of Milwaukee County.
2. Petitioner is autistic and receives healthcare benefits through the Children's Long-Term Services program (CLTS). (Testimony of Petitioner's mother)
3. Petitioner also has private insurance through his mother's employer. (Testimony of Petitioner's mother)
4. In March of 2013, Petitioner's parents received a bill from Integrated Development Services, Inc., Petitioner's treatment provider, for autism services provided in January and February 2013. The bill was for a co-pay required by Petitioner's private insurer, which was approximately \$160 per month. (See Exhibit 6; Testimony of Petitioner's mother)
5. On April 24, 2013, Petitioner's father received an e-mail from St. Francis Children's Center, advising him that the CLTS program does not pay co-pays imposed by private insurers and that in the past, the treatment providers did not bill patients for the private co-pay. (Exhibit 6)
6. Petitioner's parents filed a complaint/request for fair hearing that was received by the Division of Hearings and Appeals.

### **DISCUSSION**

The Children's Long Term Support waivers program (CLTS) is a subprogram of the Medicaid program that is intended to meet the long term care needs of children with developmental disabilities, physical disabilities and mental health disabilities. *Medicaid Eligibility Handbook (MEH)* §28.14.1.

When participants in the CLTS program have private health insurance, the private insurer is, "to be billed first for any medical services. Medicaid then pays any amount remaining after the private insurer has paid what they owe, up to the Medicaid reimbursement rate." *MEH* §9.1.1 This is because Medicaid is usually the payer of last resort. *See MEH* §§9.1.1 and 9.6.1

When private insurance only partially reimburses the treatment provider for the claim, there are instructions on the ForwardHealth website for billing the remaining balance, up to the Medicaid reimbursement rate. *See* <https://www.forwardhealth.wi.gov/WIPortal> topic 596.

Petitioner's parents filed an appeal because they are unhappy with Integrated Development Services's decision to bill the private co-pay amount required by the private insurer. This is not an issue over which the Division of Hearings and Appeals has jurisdiction.

Petitioner's parents also filed an appeal because they believe CLTS Medicaid should cover the cost of the private co-pay. Petitioner's mother testified that they have had to discontinue with autism services, because they cannot afford the co-pay. However, this issue is not ripe for adjudication, because there is no indication in the record that Integrated Development Services billed Medicaid for the difference between the cost of the service and the amount paid by Petitioner's private insurer and was then denied.

Even if the issue were ripe for adjudication, there is insufficient information upon which to conclude CLTS Medicaid is obligated to cover the amount of the co-pay. It is unclear from the record whether the amount paid by the provider is the cost of the service, less the co-pay and it is unclear whether the amount paid by the private insurer was less than the Medicaid reimbursement rate.

### **CONCLUSIONS OF LAW**

The Division of Hearings and Appeals does not have jurisdiction over this matter.

**THEREFORE, it is**

**ORDERED**

The appeal is dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

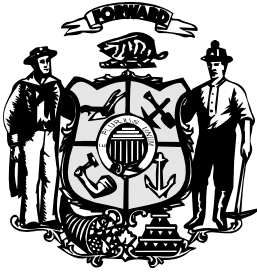
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 18th day of July, 2013.

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\sMayumi M. Ishii  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on July 18, 2013.

Bureau of Long-Term Support